

up the bill that is already on the calendar.

Mr. NICKLES. I know.

Mr. BAUCUS. And strike out the substance of it; take it up and pass it back with these provisions.

I might answer my friend, this is the procedure we have to follow in order to pass these extenders.

Mr. NICKLES. Further reserving the right to object, again I will object if it is striking the House bill. The House passed a bill with a good vote. I do not remember exactly what it was. If it is in addition to the House bill, I would not object.

I ask my colleague—and I think I hear the Senator saying he is not going to—is it not the intent of the Senator not to pass the House-passed bill? I was hoping we could make a deal.

I might mention we might have to notify a few other Senators before we do this by unanimous consent.

Mr. BAUCUS. I see. It is now more clear to me what is happening.

Mr. NICKLES. My intention was, if we want to repeal the death tax and pass the extenders, this Senator would have no objection. I am sure we could whip it and see if there would be no objection.

Mr. BAUCUS. I understand. I am sure the Senator would love to do that, and I am also sure there would be other Senators who would object.

Mr. NICKLES. The Presiding Officer might like for us to do that.

Mr. BAUCUS. Given all the objections that approach will take, I was asking the Senator to consider the approach I am suggesting.

Mr. NICKLES. Further reserving the right to object, if the Senator is not going to agree to pass the House-passed language that passed in April with the extenders language, then I ask the Senator to modify his request and let us take up the stimulus package that did have the extenders, that did have many other provisions that would have helped the unemployed, that did have some things that would help stimulate the economy, that did some things that would help New York in addition to what we have already done today. So I ask my colleague to modify his request, let us take up the stimulus package, the H.R. 3529, which was received from the House.

I ask unanimous consent that the request be modified so that at first the Senate would proceed to consideration of H.R. 3529, which is the stimulus package received by the House; the bill be read a third time and passed, with no intervening action or debate.

I would add, before the Chair rules, the bill has extender language that my colleague from Montana is requesting and therefore it would accommodate his request.

The PRESIDING OFFICER. Does the Senator so modify his request?

Mr. BAUCUS. Mr. President, I believe the Senator made a unanimous consent

request that would change my unanimous consent request, at least as I understand it. I ask the Senator if he will modify his request to substitute the stimulus bill that passed the Senate Finance Committee instead of the bill that passed the House.

Mr. NICKLES. I cannot agree to that. I do not know if we are playing one-upmanship. I would like to pass the bill that passed the House. So I will not agree to that.

Mr. BAUCUS. Mr. President, it is clear what is happening.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. NICKLES. I object.

The PRESIDING OFFICER. The objection is heard.

Under the previous order, the Senator from Louisiana is recognized.

#### BIOTERRORISM

Ms. LANDRIEU. Mr. President, there are many important issues on the agenda and the one that was being discussed is one of the most important, but not the only. There is other business that needs to get done before we leave, which is an issue that is of great concern and an issue I wanted to bring to the attention of the Senators.

Before I get into that subject area, which relates to families and children and adoption, I want to thank the leadership. I thank Senator KENNEDY and Senator FRIST, the main sponsors of the bioterrorism legislation, for agreeing in a colloquy submitted on behalf of myself and Senator MCCONNELL from Kentucky to add a provision that will help all hospitals to call on FEMA funds that may be available in the event of another terrorist attack when hospital resources are called on to assist victims of those attacks or if the hospitals are harmed themselves. I very much appreciate it because it seemed to be an oversight in the legislation.

As that bill moves to conference, I particularly thank them for their sensitivities to provide funding for all hospitals in the event that that situation were to occur. Of course, we are all hopeful it does not and are working very hard to see it does not, but I thank them for agreeing.

#### TWELVE FAMILIES NEED CAMBODIAN VISAS TO BRING THEIR CHILDREN HOME

Ms. LANDRIEU. Mr. President, I know the Senator from Ohio and others are waiting to speak on other matters before we leave, but last night there was a troubling exposé done on a very unfortunate circumstance, and that circumstance involves 12 American families who are stuck in Cambodia because they are unable to obtain visas for their newly adopted children. They

are unable to get those visas to come back to the United States safely with these children to celebrate what would have been a joyous homecoming on these holidays.

We are all getting ready to join our families and loved ones in our home States for Christmas and for the holidays. It is not just parents being reunited with children and children with parents, but grandchildren, aunts, uncles, and cousins. This holiday season, as we have all said, is going to be even that much more special because of the challenges before our Nation and the events of September 11 and subsequent events that make us realize how important our families are to us and our loved ones.

We are mindful as we leave today, happy with some of the successes we have had, of the pain and suffering that will be felt during this holiday season by 3,000 families and many more who were directly affected, who will not have a loved one present for the holidays.

For the record, there is not anything I can offer at this moment—no piece of legislation, no fix that I can offer at this moment—but it is my intention to work with all the Senators and to work with the INS, to work with the State Department over the course of the next several days and weeks and months, if necessary, to make sure these American families can get the visas, take their children safely and come to the United States.

According to the INS and according to the story and the details I know, there is concern that there is fraud and abuse in Cambodia and therefore that is why the visas were not issued. I acknowledge that, unfortunately, in the whole area of adoption, both domestic and international, there is some fraud and abuse. We need to do everything we can to make sure that fraud and abuse is stamped out. This Senate, this House, and this Congress, with the help of President Clinton as well as President Bush and both State Departments in the last administration and this administration, are working diligently on that.

We have passed a Hague treaty, an international treaty aimed specifically at making the system of adoption more transparent, eliminating the middleman, reducing time, and encouraging people to adopt children from all over the world because there are so many children who need a home and so many families who want to add children to their families, to build and strengthen their families through adoption.

Denying visas to 12 American families who pay their taxes, good community citizens, people who are doing everything they think is right, and then denying the visas is, I suggest, not the right approach. I am hoping our INS, with our new Commissioner, Mr. Ziglar, who we all know very well and

who I have spoken to directly about this issue, as well as the State Department and Secretary Powell and others, will look into this matter and come to an understanding and agreement to allow these children to come with their families.

These children are 6 months to 31 months old. I have learned if children are not adopted in Cambodia by the age of 8, under the Cambodian rules and regulations, children are not able to be adopted. So there is an urgency. There are time issues here. It is very important to try to work through this situation to help these families who are from Illinois, Pennsylvania, New York, Maine, Virginia, Oklahoma, Washington, and Arizona; none from Louisiana.

As the chair of the adoption caucus, I bring this to the attention of the Senate. I will be working as much as I can over the next weeks and months to make sure this issue is resolved. There are procedures that can be used to focus on eliminating abuse and corruption but holding up families who have gone through the process, sometimes excruciating detail, without specific allegations of fraud in these individual cases, is beyond where I think we need to go.

In conclusion, we need to promote adoption, helping the system to be transparent and encouraging people by saying, it is not too long, it is not too tough, it is not too difficult, and it is worth it to bring some of these children to our country and to provide permanency and love to so many who have so little to hope for.

Mr. President, I ask unanimous consent to have these details printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

**WHY THESE 12 NOTICES OF INTENT TO DENY SHOULD BE REVOKED**

The Consular Officials in Cambodia reviewed each child's documents PRIOR to the child being legally adopted under Cambodian law. The documents were again reviewed by Consular Officials prior to the parents being notified that all was in order and scheduling of their interviews. So the U.S. State Department had two opportunities to identify problems prior to the parents traveling to Cambodia to bring home their child. These children are now officially adopted by American citizens. To deny these children visas for no specific, concrete reason, is to make orphans out of these children all over again.

INS should revoke the Notice of Intent to Deny Letters it issued in the recent Cambodian cases for the following reasons.

1. INS did not conduct a case-by-case investigation.

INS has a policy to adjudicate cases on a case-by-case basis. This policy is predicated on the premise that each case has unique facts, documents and circumstances. In reviewing the seven (7) Notice of Intent to Deny Letters, the matters addressed are exactly alike. The cases do not even reflect correct information about the children and their respective ages. Specifically, the let-

ters focus on children that are infants. However, in review of the children is issue, a significant number of children are not infants.

One child is 31 months old;

One child is 25 months old;

One child is 23 months old;

One child is 20 months old;

One child is 10 months old;

Seven children are approximately 6 months old; and

DOB May 8th 2001 and abandoned May 14 (Munson).

It is important to note that all of the children have been in the Asian Orphanage Association for at least six (6) months. These children have been processed through the Cambodian judicial system and have been adopted by American families in accordance with the laws of Cambodia.

2. The investigation is flawed: INS only investigated cases that were facilitated by a Cambodian man, Serey Puth—it did not investigate orphans from other orphanages or children who came through other facilitators; INS interviewed secondary sources when persons holding primary roles were available; faulty translations; and erroneous information in the Notice of Intent to Deny.

(a) The only children that were targeted in this investigation were children that has been processed through a Cambodian facilitator, Serey Puth. Children who were placed through other orphanages and other facilitators were not investigated.

(b) Generally, INS protocol is to conduct extensive investigations. Statements are taken under oath by competent investigators and translators. Usually, primary parties are interviewed. This did not occur in these cases.

INS only interviewed three persons. Mrs. Phorn Phon, the wife of a village chief for Chaneng Mang village, Mr. Yo a member of the staff of the Asian Orphanage Association and a villager on motorcycle.

It would have been more appropriate to interview the chief instead of the chief's wife. It is not sound reasoning to expect the wife of the village chief to know everything that the chief knows.

It would have been more direct and informative to interview Serey Puth, the owner and director or the Asian Orphanage Association than Mr. Yo a staff member of AOA. Mr. Yo has the responsibility of listing children in the orphanage's registry, making sure the premises are clean and in good repair. He is not privy as to the circumstances of the particular cases. He would not know when and where children were born.

Additionally, Serey Puth, the director and owner of the AOA orphanage was available and willing to meet with the INS officials. Although he had just moved the location of his office, it would not have been difficult to locate him.

It would have been more credible to interview persons in authority than to interview someone who drove by the chief's dwelling on a motorcycle and claimed he was the deputy chief of a village near by.

(c) There is a serious problem with the comprehension and/or translations. Here are three examples of erroneous interpretations by the translator.

(i) The Notice of Intent to Deny letter contains the following pertinent statement by Mr. Yo. "Mr. Yo was then asked if he thought that it was reasonable to accept the answers that he had given and he said he did not."

Please note that this statement is taken directly from the Notice of Intent to Deny.

The only explanation for such a dialogue is that Mr. Yo did not understand the investigator's question or Mr. Yo has some serious competency problems.

(ii) When the INS investigator asked Mr. Yo where Serey Puth was, Mr. Yo responded that Serey Puth, the orphanage director and owner, was out in the country as in the countryside. However, the translator interpreted his answer to be that Serey Puth was out of the country. Serey Puth never left the country during the nine day INS investigation.

(iii) The Chief's wife was asked if any children were abandoned in the village and she stated that there were not. That is true, children from her village had not been abandoned. However, children from other whereabouts had been abandoned to the village.

Review of these examples illustrates how words not properly translated can lead to very unfavorable conclusions.

(d) The Intent to Deny states that a raid was conducted of the Asian Orphanage Association premises. This is false. The Cambodian officials conducted a raid of a medical center, not AOA. Some of the children from the orphanage were being treated at the medical center.

Additionally, the Intent to Deny states that "accusations of baby trafficking have been levied against the director." This too is false! Evidence from the Cambodian newspapers confirm the allegations made herein.

3. Cambodian government authorities are satisfied that their law has been fully complied with.

MOSALVY, a Cambodian governmental entity (Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation) informed the American prospective adoptive parents that they had been approved to adopt specific Cambodian children. Additionally, MOSALVY issued a Certificate of Adoption for each of the children in issue. Had there been any irregularities regarding these children, it would seem that the Cambodian government would have been aware of the problems. Furthermore, if the Cambodian government believes that the Asian Orphanage Association did not comply with Cambodian law, then MOSALVY has the ability to revoke the Certificates of Adoption.

In addition, under the old Cambodian Law, if it was not known where a child was born, the place of birth was picked randomly. In the last year, the law has been changed. Currently, when an abandoned child is found, his place of birth is where he was found. However, at the time that the children were born and registered with vital records, the orphanage director complied with the law of that time—he picked a place of birth.

INS sent Jean M. Christiansen from the INS District Office in Bangkok to investigate the cases. While in Cambodia for nine days, her staff conducted an investigation. Under her pen, INS issued Notices of Intent to Deny to the American families. INS should revoke its Notices of Intent to Deny.

**CAMBODIAN CASES THAT RECEIVED NOTICES OF INTENT TO DENY**

Adoptive parents' State	DOB	DOA
Pennsylvania .....	5-05-99	1-01-01
Illinois .....	10-10-99	11-26-99
Illinois .....	1-07-00	2-10-01
NY .....	2-04-00	3-10-00
NY .....	2-10-01	4-25-01
Maine .....	2-27-01	3-14-01
Illinois .....	5-01-01	5-06-01
Virginia .....	5-05-01	5-12-01
Oklahoma .....	5-08-01	5-14-01
Arizona .....	5-18-01	5-25-01
Washington .....	5-22-01	5-29-01
Arizona .....	5-29-01	6-01-01
Illinois .....	6-14-01	6-21-01

DOB: Date of birth.  
POA: Place of abandonment.



## CAMBODIAN CASES TO RECEIVE NOTICES OF INTENT TO DENY

State and contact	DOB	DOA	Place of birth	Place of abandonment	US agency or facilitator	Orphanage contact
Pennsylvania .....	5-05-99	1-01-01	.....	.....	.....	AOA/
Illinois .....	10-10-99	11-26-99	.....	.....	.....	AOA/RO.
Illinois .....	1-07-00	2-10-01	.....	.....	.....	AOA/RO.
NY .....	3-04-00	3-10-00	.....	.....	.....	AOA/RO.
NY .....	2-8-01	5 01	.....	.....	Independent Facilitator Cassandra Keirstead .....	Cambodian, French Hungarian Friendship Orphanage.
Maine .....	2-27-01	3-14-01	.....	.....	.....	AOA.
Illinois .....	5-01-01	5-06-01	.....	.....	.....	AOA/RO.
Virginia .....	5-05-01	5-12-01	.....	.....	Independent Facilitator Cassandra Keirstead .....	Cambodian, French Hungarian Friendship Orphanage.
Oklahoma .....	5-08-01	5-14-01	.....	.....	.....	AOA/RO.
Arizona .....	5-22-01	.....	.....	.....	Independent Facilitator Cassandra Keirstead .....	Cambodian, French Hungarian Friendship Orphanage.
Washington .....	5-22-01	.....	.....	.....	Independent Facilitator Cassandra Keirstead .....	Cambodian, French Hungarian Friendship Orphanage.
Arizona .....	5-29-01	6-1-01	.....	.....	.....	AOA/RO.
Illinois .....	6-14-01	6-21-01	.....	.....	.....	AOA/RO.

DOB: Date of birth.

POB: Place of birth.

POA: Place of abandonment.

AOA: Asian Orphanage Association.

RO: Web site Reaching Out.

Ms. LANDRIEU. I thank the Senator from Oklahoma. One or two or more of these families are from his home State. He has been such an advocate of adoption and such a tremendous leader in this area. I know he would understand. We will keep the Senate posted and work with the officials from the executive department to see if it is resolved.

My wish to the families is that we could give them Christmas in the United States and get it resolved in the next few days. Perhaps that is possible. If not, we will revisit the issue when we come back in January.

The PRESIDING OFFICER (Mr. REED). The Senator from Oklahoma.

Mr. NICKLES. I congratulate and compliment my friend and colleague from Louisiana for her leadership in adoption, for the statement she just made. Adoption is an issue we have worked on in a bipartisan way, and we will continue to work in a bipartisan way. There are lots of families who are impacted both in the United States and worldwide. My colleague from Louisiana has done a very good job, and I am happy to work with her.

The story last night is heart-breaking. Many of our staff members have been working on these issues for a long time. I compliment her for it.

#### TERRORIST VICTIMS' COURTROOM ACCESS ACT

Mr. NICKLES. I also compliment Senator ALLEN for his leadership and passage of a bill a few moments ago that will allow closed-circuit TV viewing for the trial of the alleged terrorists. I compliment Senator ALLEN because I know he has a lot of constituents in Virginia and there are a lot of constituents in New York, New Jersey, and California who have a real interest in seeing that justice is done. By passing the authorization bill allowing for closed-circuit TV, he will do that. I compliment Senator ALLEN for making that happen.

#### UNFINISHED SENATE BUSINESS

Mr. NICKLES. Mr. President, we are getting close to wrapping up this session. We did a lot of good things this year and some things we didn't get done. One thing we did not get done was passage of the stimulus package. That is unfortunate. It became way too partisan. It did not need to be. Recessions are not partisan. We have a lot of people out of work who need help. A lot of companies want to grow. We could have done that.

Senator GRASSLEY worked hard with the Bush administration. There was a lot of movement on this side of the aisle to help pass the stimulus package. It didn't happen. I regret that very much. We could have helped the economy, and we could have helped a lot of unemployed people.

Senator BAUCUS mentioned earlier that he hopes when people come back they are less partisan and more intent on getting some positive results for the American people. That needs to happen. I hope we do not hear: Well, we cannot bring something out unless it passes two-thirds on our side. That does not belong in the Senate. The Senate is a deliberative body, and we should have a chance to try to pass things, and pass them by majority vote. Try to get something done, try to make a positive contribution toward helping the economy, not a strictly Democrat or Republican package, but a package that helps the economy.

The House passed good legislation last night. Not perfect. Maybe we can improve upon it and help our economy and help the unemployed.

As we wind down, there are several nominations that are pending that should be confirmed. It is not fair to this administration. It is not fair to some of these individuals who have been languishing, waiting to be confirmed with no action. There are five district court nominees, Federal judges. We have confirmed 27; if we do 5 more, that will be 32. During President Clinton's first year, we confirmed 27 of 47. President Bush nominated 60. We have confirmed 27, not quite half. We confirmed over half for President

Clinton, and if you look at what we did for the first President Bush or what we did for Ronald Reagan, we confirmed 91 percent of Ronald Reagan's judges and a much higher percentage for President Bush. We should confirm more than we have today. There are five on the calendar. There is no reason not to confirm these individuals. We all know they will be confirmed. Why not let them go ahead and assume their duties?

We have a judge from Alabama, a judge from Colorado, a judge from Nevada, a judge from Texas, a judge from Georgia. We have judges from Democrat States and Republican States. Let's not hold these five individuals hostage. We can pass them tonight and I urge my colleagues to help do that.

We also have four U.S. attorneys, from Alabama, New York, Arkansas, and one from New Jersey. They need to be confirmed. They should be confirmed.

We have a couple of marshals who are pending. There is no reason why they should not be confirmed—actually just one marshal and one to be Chairman of the Foreign Claims Settlement Commission. Let's confirm these individuals. Let's do it tonight. Somebody says: Why are you doing it tonight? We confirmed more judges, more U.S. attorneys—all those are always done by voice votes.

We have Janet Hale to be Assistant Secretary of Health and Human Services. Secretary Thompson is entitled to have his Assistant Secretary for Health and Human Services be confirmed. So I urge my colleagues to vote on that nomination or to approve that nomination.

We also have a couple of other positions. We have James Lockhart III to be Deputy Commissioner of Social Security. That is an important position.

In the Department of Energy, we have Michael Smith, actually one of my constituents. He happens to be secretary of energy of the State of Oklahoma. He has been nominated to be Assistant Secretary of Energy dealing